In the High Court of Punjab and Haryana at Chandigarh

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Criminal Writ Petiton No.465 of 2007

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Date of decision:4.5.2007

Nanaki Bai

... Petitioner

v.

State of Punjab and others

... Respondents

....

Present: Mr. Kulbhushan Soi, Advocate for the petitioner.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab for respondents No.1, 3 and 4.

Mr. Karan Bhardwaj, Advocate for respondent No.2.

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S.S. Saron, J. (Oral)

This petition under Article 226 of the Constitution of India has been filed for issuance of a writ, order or direction in the nature of Habeas Corpus to release the detenue Smt. Bhago daughter of Gulab Dass. The petitioner is the mother of Smt. Bhago. It is stated that on 1.4.2007 at about 7.00 p.m. respondent No.2 came to the house of the petitioner and enticed away her daughter Smt. Bhago. The petitioner submitted an application on 2.4.2007 to the SHO, Police Station Sadar, Ferozepur to take action against accused Raj Singh (respondent No.2) etc. It was stated that Raj Singh has enticed away her minor daughter who is aged 16 years. When the case was

listed for hearing on 2.5.2007 learned counsel for the petitioner contended that the daughter of the petitioner had been detained under Section 109 Cr.P.C. It was submitted that necessary bail bonds have been furnished, however, she was not being released due to the influence exercised by respondent No.2.

Reply by way of affidavit of Shri Sarabjit Singh, Inspector/SHO, Police Station Sadar, Ferozepur has been filed in Court today on behalf of respondents No.1, 3 and 4. It is stated that Smt. Bhago was never detained illegally as alleged by the petitioner. It is also denied that Smt. Bhago daughter of the petitioner is a minor and in fact she is a major aged about 23 years. The real facts of the case, it is stated, are that on 5.4.2007 a Police party of Police Station Sadar, Ferozepur headed by ASI Atma Singh were on patrol duty. At about 7.30 p.m., two persons were found in an indecent position. They were apprehended and they disclosed their names as Bhagwanti alias Bhago daughter of the petitioner and Raj Singh (respondent No.2). They were brought to the Police Station and were arrested under Section 41(2) Cr.P.C. Calendar of events (Calendra) was prepared under Sections 109 and 41(2) Cr.P.C. Due to odd hours they were kept in the judicial lock up of Police Station for men and women. The next day i.e. on 6.4.2007 they were produced before the Executive Magistrate, Ferozepur and were sent to judicial custody under orders of the Executive Magistrate as no one furnished bail bonds for them. It is also submitted that Bhagwanti alias Smt. Bhago had refused to go along with her mother (petitioner) apprehending danger to her life. She got her statement recorded with the Deputy Superintendent Jail, Ferozepur when she was asked to go

with the petitioner on account of her bail. Thereafter, she was sent to Nari Niketan under the orders of Executive Magistrate, Ferozepur (respondent No.6).

Learned counsel for the State has submitted that Smt. Bhago has now furnished her bail bonds and she has been released. Learned counsel for the petitioner has other grievances and states that in fact Smt. Bhago daughter of the petitioner is in illegal custody of respondent No.2. The same is not substantiated by any material on record and neither has any affidavit in that regard been filed. The prayer made and the contention raised by the learned counsel on 2.5.2007 was that despite Smt. Bhago furnishing her bail bond she was not being released. At present she has admittedly been released on bail. In case the petitioner has any other grievance, she may pursue the same in accordance with law.

Keeping in view the detenue has been released, nothing survives in the present petition and the same is accordingly dismissed.

May 4, 2007. **(S.S. Saron)**
Judge

hsp